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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,540	07/02/2003	Randy D. Baxter	RSW920030049US2	3593

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EXAMINER

KARDOS, NEIL R

ART UNIT	PAPER NUMBER
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3623

NOTIFICATION DATE	DELIVERY MODE
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12/26/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mld@mindspring.com

Office Action Summary	Application No. 10/612,540	Applicant(s) BAXTER ET AL.	
	Examiner Neil R. Kardos	Art Unit 3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21, 24 and 25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21, 24 and 25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/14/08</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is a **FINAL** Office action on the merits in response to communications filed on October 8, 2008. Claims 1, 3, 5, 11-15, 18, 20-21, and 24-25 have been amended. Currently, claims 1-21 and 24-25 are pending and have been examined.

Response to Arguments

Applicant's arguments filed on October 8, 2008 have been fully considered but they are not persuasive. Applicant argues the following:

- (A) Crow does not teach “determining a plurality of criteria that are important to a target market, and at least one attribute to be used for measuring each of the criteria.” (see Response, pages 9-10).
- (B) Crow does not teach “inspecting a representation of the IT product, with reference to selected ones of the attributes.” (see Response, page 10).
- (C) Crow does not teach “assigning attribute values to the selected attributes, according to how the IT product compares to the specified objective measurements.” (see Response, pages 10-11).
- (D) Crow does not teach “generating a list of recommended actions, the list having an entry for each of the selected attributes for which the assigned attribute value falls below a threshold.” (see Response, page 12).
- (E) Crow does not teach “a specification of how much the assessment score would be increased if the assigned attribute value was raised to the threshold.” (see pages 12-13).

Examiner respectfully disagrees.

Argument (A): Crow does not teach “determining a plurality of criteria that are important to a target market, and at least one attribute to be used for measuring each of the criteria.”

Crow very clearly discloses a plurality of criteria that are important to a target market in the House of Quality figure on page 4. This figure depicts “Customer Requirements” along the left side of the matrix, which are equivalent to the claimed “criteria that are important to a target market.” Crow also discloses attributes for measuring the customer requirements in the same figure. Along the top of the matrix are listed “Product Design Requirements” that are used to measure the customer requirements. In the response, Applicant states that “In Crow, relationships between customer requirements and product/technical requirements are measured.” (see Response, page 10) Yet, Applicant contends that this is “substantially different” from attributes that measure criteria. Based on the above explanation, Examiner does not see this difference. Thus, Crow teaches this limitation.

Argument (B): Crow does not teach “inspecting a representation of the IT product, with reference to selected ones of the attributes.”

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In the Concept Selection Matrix on page 7, Crow evaluates product concepts (i.e. a “representation of a product”) according to how well they satisfy the Product Design Requirements (i.e. “attributes”). Thus, Crow meets this limitation.

Argument (C): Crow does not teach “assigning attribute values to the selected attributes, according to how the IT product compares to the specified objective measurements.”

In the Concept Selection Matrix on page 7, Crow assigns a value to the Product Design Requirements (i.e. “attributes”) based on how well the product concept satisfies the Product Design Requirements. See also the text accompanying the figure: “The various product concepts are evaluated on how well they satisfy each criteria in the left column using the QFD symbols for strong, moderate, or weak.” Thus, Crow meets this limitation.

Argument (D): Crow does not teach “generating a list of recommended actions, the list having an entry for each of the selected attributes for which the assigned attribute value falls below a threshold.”

In step 2 on page 4, Crow discloses “Where does the gap need to be closed and how can this be done – copying the competition or using a new approach or technology?” Gap analysis is a well-known technique to compare actual performance with potential performance. It is a comparison of the current situation with a desired state and a determination of how to reach the

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desired state. Thus, the “threshold” implicitly taught by Crow is the value given to the desired state (see e.g. House of Quality figure, “Technical Evaluation”). For Product Design Requirements that fall below this threshold (in Crow’s words, “Where does the gap need to be closed?”), the recommendations supplied by Crow are (1) copying the competition, and (2) using a new approach or technology (see step 2 on page 4). Thus, Crow teaches this limitation.

Furthermore, Examiner takes Official Notice that gap analysis was well-known in the art at the time the invention was made. The gap analysis technique meets the claimed limitations. It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ gap analysis to improve the attributes (and ultimately, the products) of Crow. One of ordinary skill in the art would have been motivated to do so for the benefit of increased customer satisfaction.

Argument (E): Crow does not teach “a specification of how much the assessment score would be increased if the assigned attribute value was raised to the threshold.”

In the Concept Selection Matrix on page 7, Crow calculates a total score for a product concept by multiplying an importance rating by a value that represents an attribute rating, and then summing the resultant values. Thus, if a value is raised to a certain threshold, one can see how this change impacts the product’s overall assessment score. Thus, Crow at least suggests this limitation.

Furthermore, Examiner takes Official Notice that it was well-known in the art at the time the invention was made to perform a change impact analysis to determine the effects of changes

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on an overall system, including using “scores” to perform this analysis. It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ such an analysis to assess the impact of a change on Crow’s product concepts. One of ordinary skill in the art would have been motivated to do so for the benefit of a more accurate determination of how a change will affect the product’s success.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 7-17, 21, and 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crow, “Customer-focused Development with QFD,” published on September 30, 2000 and accessed via the Wayback Machine (www.archive.org).

Claim 1: Crow discloses:

- determining a plurality of criteria that are important to a target market, and at least one attribute that may be used for measuring each of the criteria (see “Introduction” on page 1, disclosing producing products to meet customer needs; House of Quality figure on page 4, depicting attributes that meet customer requirements);

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- specifying objective measurements for each of the attributes (see item 3 on page 4, disclosing measurable characteristics to satisfy customer needs; House of Quality figure on page 4);
- conducting an evaluation of a product, further comprises steps of:
- inspecting a representation of the product, with reference to selected ones of the attributes (see concept selection matrix on page 7, depicting different concepts and their associated scores for different attributes; “Concept Selection and Product Design” beginning on page 6);
- assigning attribute values to the selected attributes, according to how the product compares to the specified objective measurements (see id.); and
- generating an assessment score for the product from the assigned attributes (see id.; item 8 on page 5).
- generating a list of recommended actions, the list having an entry for each of the selected attributes for which the assigned attribute value falls below a threshold, each of the entries providing at least one suggestion for improving the assigned attribute value (see item 2 on page 4, disclosing making recommendations for closing gaps for attributes that fall below a benchmark threshold) and
- a specification of how much the assessment score would be increased if the assigned attribute value was raised to the threshold (see concept selection matrix on page 7, depicting a matrix used to calculate a total score for a product by multiplying an importance rating by a value given to a symbol for a variety of attributes, and then summing the attribute values to arrive at a total score; thus, if

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a value is raised to a certain threshold, one can see how this change will reflect in the product's overall assessment score).

Crow is not expressly clear on threshold values. However, Crow discloses gap analyses and benchmarking, which are old and well-known techniques. It is well known to use these techniques during a product's design phase in order to improve that end product by making it equal to or better than a competing product (i.e. closing the gap or meeting the threshold). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use threshold values as claimed when performing the methodology of Crow. This combination of known elements produces a result that would be predictable to one of ordinary skill in the art.

Crow does not explicitly disclose evaluating IT products. However, Examiner takes Official Notice that it was well-known in the product development arts at the time the invention was made to apply evaluation techniques to different types of products, including IT products. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the product development methodology taught by Crow to IT products. It was within the capability of one of ordinary skill in the art at the time the invention was made to evaluate IT products according to the methodology of Crow, and the result of an assessment score is predictable.

Claim 2: Crow does not explicitly disclose wherein the list of recommended actions is generated automatically, responsive to the assigned attribute values that fall below the threshold. However, it is old and well-known in the computing arts to automate processes. *See in re*

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Venner, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to automate the processes disclosed by Crow. One of ordinary skill in the art would have been motivated to do so for the benefit of efficiencies gained through process automation.

Claim 3: Crow discloses:

- prioritizing each of the attributes in view of its importance to the target market (see House of Quality on page 4, “Priority”; Concept selection matrix on page 7, “Importance Rating”);
- assigning weights to the attributes according to the prioritizations (see *id.*); and
- using the weights when generating the assessment score (see *id.*).

Claim 4: Crow does not explicitly disclose wherein the assessment score is programmatically generated. However, it is old and well-known in the computing arts to automate processes. *See in re Venner*, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to automate the processes disclosed by Crow. One of ordinary skill in the art would have been motivated to do so for the benefit of efficiencies gained through process automation.

Claim 7: Crow discloses wherein a product team developing the IT component provides input for the evaluation by answering questions on a questionnaire that reflects the attributes (see questions in items 1-10 on pages 3-6).

Claims 8-10: Crow does not explicitly disclose recording information about scores, recommendations, and answers to questionnaires in a workbook, including an electronic workbook.

Examiner takes Official Notice that it was well-known in the research and development arts at the time the invention was made to record research and development data in a workbook, including an electronic workbook (e.g. Microsoft Excel).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to record the information gathered during the product development stages of Crow in an electronic workbook according to well-known methods. One of ordinary skill in the art would have been motivated to do so for the benefit of efficiencies gained by recording data.

Claims 11-12: Crow discloses providing the scores and recommendations to a product team developing the IT product (see at least ¶¶ 3-4 on page 1).

Crow does not explicitly disclose an assessment workbook. However, this deficiency has been addressed in the rejection of claims 8-10, above.

Claim 13: Crow does not explicitly disclose assigning a special designation to the IT product if and only if the assessment score exceeds a predefined threshold. However, this practice is old and well-known. For example, Consumer Reports designates products receiving a certain score as a "Consumer Reports Best Buy." Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply old and well-known

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assessment designations to the products assessed by the methodology of Crow. This combination of known elements produces a result that would be predictable to one of ordinary skill in the art.

Claims 14-17: Claims 14-17 are substantially similar to claim 1, and are rejected under similar rationale.

Claim 21: Claim 21 is substantially similar to claim 13, and is rejected under similar rationale.

Claim 24: Claim 24 is substantially similar to claim 1, and is rejected under similar rationale.

Claim 25: Crow does not explicitly disclose charging a fee for carrying out one or more of the conducting, recording, and using steps. However, it is old and well-known to charge fees for conducting services in order to make a profit. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to charge a fee for carrying out the methodology of Crow. One of ordinary skill in the art would have been motivated to do so for the benefit of profit.

Claims 5-6 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crow in view of Korisch (US 2004/0068456).

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Claim 5: Crow does not explicitly disclose wherein the step of conducting an evaluation is repeated at a plurality of plan checkpoints used in developing the IT component.

Korisch teaches repeatedly checking to determine if a product meets predetermined specifications in order for that product to proceed to the next step (see figure 4, item 29; paragraph 154, lines 19-25).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to repeat the methodology of Crow throughout the design process as taught by Korisch. One of ordinary skill in the art would have been motivated to do so for the efficiencies gained by meeting product requirements (see Korisch, paragraph 154, lines 22-24).

Claim 6: Crow does not explicitly disclose wherein successful completion of each of the plan checkpoints requires the assigned attribute scores to exceed a predetermined threshold.

Korisch teaches repeatedly checking to determine if a product meets predetermined specifications in order for that product to proceed to the next step (see figure 4, item 29; paragraph 154, lines 19-25).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to repeat the methodology of Crow throughout the design process as taught by Korisch. One of ordinary skill in the art would have been motivated to do so for the efficiencies gained by meeting product requirements (see Korisch, paragraph 154, lines 22-24).

Claim 20: Claim 20 is substantially similar to claim 6, and is rejected under similar rationale.

Claims 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crow in view of Lowe, "QFD in new production technology evaluation."

Claims 18-19: Crow does not explicitly disclose wherein the specified objective measurements further comprise textual descriptions to be used in the step of assigning attribute values using a multi-point scale.

Lowe discloses these limitations (see col. 1-2 on page 108, disclosing guidelines for establishing scoring values based on a four-point scale; table 1, disclosing definitions for product characteristic levels; table 2, disclosing guidelines for evaluation of interrelationship values; table 3, disclosing guidelines for importance scoring).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the guidelines disclosed by Lowe to score the attributes of Crow. One of ordinary skill in the art would have been motivated to do so for the benefit of efficiencies and accuracies gained through standardization.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neil R. Kardos whose telephone number is (571) 270-3443. The examiner can normally be reached on Monday through Friday from 9 am to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beth Boswell can be reached on (571) 272-6737. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Neil R. Kardos
Examiner
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Primary Examiner, Art Unit 3623